



Client's ref: P-6211-001-0000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**-----x  
In re Application of: K. NAKAMURA et al : Art Unit: 1752

Serial No. : 10/657,509 : Examiner: T.  
Filed : September 8, 2003 : Chea  
Title : SILVER SALT PHOTOTHERMO- :  
GRAPHIC DRY IMAGING :  
MATERIAL :  
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**DECLARATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S i r:

I, Kiyoshi Fukusaka, hereby declare and say as follows:

1. I am one of the named Inventors in the above-identified patent Application.

2. I received a Master's degree in chemistry from the University of Tsukuba in 1997. Since that time, I have been employed by Konica Corporation (now Konica Minolta Medical & Graphic, Inc.) the Assignee of the above-identified Application. During my employment at Konica, I have engaged in the research and development of photographic materials.
3. I had previously executed a Declaration on March 22, 2005 in this Application. I note in the Advisory Action dated September 20, 2005, that the Examiner commented on this March '05 Declaration. This Declaration is presented to address the Examiner's comments in the Advisory Action.
4. The Examiner noted that the samples of Fukui could not be properly evaluated because, in Paragraph 9 of my March '05 Declaration, it states that the material made according to Fukui and the comparative material, i.e. Samples 3-6, were exposed and processed in accordance with the teachings of Oya. This is a clerical error. In fact, the material made according to Fukui was exposed and processed in accordance with

the teaching of Fukui, not Oya. Thus, Samples 3-6 were exposed and processed in accordance with the teachings of Fukui, provided that the exposure was made using an exposure apparatus and the processing was done using a processor as recited on page 124 of this Application. It will be noted that the processing, however, was conducted at 120°C for 15 seconds as taught in Fukui, see paragraph 0271 of Fukui. Additionally, the exposure apparatus employed had a light source of 810 nm and a light source of 814 nm. Material from Samples 3-6 were exposed to either 810 or 814 for measurement of sensitivity and  $D_{max}$  in the unaged samples. The use of the two different wavelengths to evaluate the samples for sensitivity and  $D_{max}$  of unaged samples was done because the same was done in this Application. It is recognized that Fukui did not do both wavelengths.

5. The Examiner noted that the fog values for Samples 3 and 5 in Tables 4 and 5 of the March '05 Declaration are different than the fog values in Table 1 of Fukui. Namely, Samples 3 and 5 of the March '05 Declaration are equivalent to Samples 1 and 7 in Table 1 of Fukui.

Samples 1 and 7 in Table 1 of Fukui resulted in fog values of 0.15. In contrast, the fog values for Samples 3 and 5 in Tables 4 and 5 of my March '05 Declaration are 0.23. Fukui does not disclose how he specifically measures fog or at least what instrument is used. For the values in Tables 4 and 5 of my March '05 Declaration, I used a Macbeth densitometer (TD-904). As described on page 125 of this Application, fog density was determined as a minimum density. It is unclear in my mind why there is a difference in the values reported in Table 1 of Fukui and the values reported in Tables 4 and 5 of my March '05 Declaration, however, I presume that these differences relate to the differences in the way Fukui determines fog and the way I determine the fog.

6. The Examiner stated that there is no statement in the Declaration that the results are unexpected to the worker of ordinary skill in the art. I do note that Paragraph 7 and Paragraph 11 of the March '05 Declaration states that one of skill in the art would find the results surprising and unexpected. I deem myself to be a worker of ordinary skill in the art and

I deem the results in my March '05 Declaration concerning the inventive material to be surprising and unexpected. Specifically, in Tables 4 and 5 concerning the teachings of Fukui, it will be noted that Samples 4 and 6 are identical to Samples 3 and 5, respectively, except that the reducing agent, 1-1 used in Samples 3 and 5 was replaced with the reducing agent of Formula f of PS 266 in an equimolar amount. The only difference between reducing agent 1-1 of Fukui and the reducing agent f is the ringed structure at the carbon atom bridging the two phenol groups. Thus, the difference shown in Tables 4 and 5 of my March '05 Declaration is due to this ring structure at the bridging carbon atom. As a worker of ordinary skill in the art, I find it surprising and unexpected that this ring structure would result in the difference which is shown in Tables 4 and 5 between the materials.

7. Samples 3 and 5 of my March '05 Declaration were made in accordance with Samples 1 and 7 of Fukui except for the fact that the support used was for the support of the present Invention as detailed on pages 110-111 of

this Application. The same support was used for Samples 4 and 6 of Tables 4 and 5 of my March '05 Declaration. I do not consider the use of a different support than taught in Fukui to results in any material differences between the results reported in my March '05 Declaration and the teachings in Fukui.

8. The data shown in Tables 4 and 5 of my March '05 Declaration are for both unaged samples and aged samples. The aging of the samples and the tests conducted on the aged samples are detailed on pages 126-127 of the Application. Generally, the aging process was conducted for three days at an elevated temperature. The purpose of the aging process is to show how stable the material of the present invention is over time.

It is declared by undersigned that all statements made herein of undersigned's own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

section 1001 of Title 18 of the U.S. Code; and that such willful false statements may jeopardize the validity of this Application or any patent issuing thereon.

Kiyoshi Fukusaka  
Kiyoshi Fukusaka

Dated: This 14th day of December , 2005.

DCL/mr